

AGENDA MEMO

CITY COUNCIL MEETING DATE: FEBRUARY 21, 2007

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-18669 - APPLICANT/OWNER: TODD MORIN

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (6-1/ds vote) recommends APPROVAL, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-18671) shall be required.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

PROJECT DESCRIPTION

The project is a request for a Variance to allow an existing non-habitable accessory structure to exceed the height of the principal dwelling by 1.5 feet at 5901 Huff Mountain Avenue, east of North Jones Boulevard. The subject request is a companion item to Special Use Permit Application (SUP-18671).

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
8/18/2006	Current Planning staff inadvertently approved project plan elevations and floor plans that depicted a non-habitable accessory structure that exceeds Title 19 height limit for accessory structures.
11/01/06	City Building Inspector conducted a site visit of the project location and determined the structure exceeded Title 19.08 height regulation for accessory structures. The applicant and building inspector reviewed the height measurement calculations of the existing single family residence and determined they were miscalculated.
01/25/07	The Planning Commission recommended approval of companion item SUP-18671 concurrently with this application. The Planning Commission voted 6-1/ds to recommend APPROVAL (PC Agenda Item #56/ja).
<i>Related Building Permits/Business Licenses</i>	
10/03/2006	A Building Permit was issued for the construction of a 22 foot high non-habitable accessory structure located at 5901 Huff Mountain Avenue.
<i>Pre-Application Meeting</i>	
12/06/2006	A Pre-application meeting was held with the applicant. Planning staff advised the applicant of Title 19 regulations for non-habitable accessory structures and the requirement for a Special Use Permit and Variance.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was is not required for this type of application nor was one held.	
<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.46 acre site

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-family Residential	DR (Desert Rural Density Residential)	R-PD2 (Residential Planned Development - 2 Units Per Acre)
North	Single-family Residential	DR (Desert Rural Density Residential)	R-PD2 (Residential Planned Development - 2 Units Per Acre)
South	Single-family Residential	DR (Desert Rural Density Residential)	R-PD2 (Residential Planned Development 2 Units Per Acre)
East	Single-family Residential	DR (Desert Rural Density Residential)	R-PD2 (Residential Planned Development - 2 Units Per Acre)
West	Single-family Residential	DR (Desert Rural Density Residential)	R-PD2 (Residential Planned Development - 2 Units Per Acre)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
Iron Mountain Ranch	Y		Y
PD (Planned Development) District	Y		Y
Special Purpose and Overlay Districts			
Northwest Open space Plan District	Y		Y
Trails		N	Y
Rural Preservation Overlay District		N	Y
Development Impact Notification Assessment		N	Y
Project of Regional Significance		N	Y

DEVELOPMENT STANDARDS

The following Residential Development Standards of Title 19 – Section 19.08.040 apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Setbacks			
• Front	NA	-	-
• Side	3 feet	5 feet	Y
• Corner	NA	-	-
• Rear	3 feet	7 feet	Y
Min. Distance Between Buildings	6 feet	80	Y

Max. Lot Coverage	<ul style="list-style-type: none"> • No greater than the floor area of the principal dwelling unit. • Total ground floor areas of all accessory structures shall not cover more than 50 percent of the rear yard. 	<ul style="list-style-type: none"> • Accessory Structure = 1,376 square feet; • Principal Dwelling = 2,432 square feet; 10 percent coverage of the rear yard. 	Y
Max. Building Height	2 stories (35 feet maximum), or the height of the main structure - whichever is less.	22 feet (Primary structure is 20 feet)	N

ANALYSIS

The project requests a Special Use Permit to continue construction of an existing non-habitable accessory structure. The existing structure will be used as a garage for storage of a recreational vehicle. The requested Variance will allow the structure to exceed the height limitation of Title 19.08.

Current Planning Division inadvertently approved plan elevations and floor plans that do not conform to the accessory structures height regulations. Additionally, the Building Division of Development Services issued a Building Permit (No. 6006237) for the existing structure. A site inspection of the project determined the structure exceeds the height limit.

- **General Plan and Zoning**

The project is located within the Centennial Hills Sector Plan area and the Iron Mountain Ranch Master Plan area. The property is designated as DR (Desert Rural) and is zoned R-PD2 (Residential Planned Development - 2 Units Per Acre). The proposed garage is an acceptable use within the R-PD2 (Residential Planned Development - 2 Units Per Acre) zone per Title 19 – Sections 19.04.020 and 19.08.040.

- **Site Plan and Elevations**

The site plan depicts a 1,376 square foot building situated within the rear yard of an existing 20,000 square foot single family residential lot. The plan elevations show the main structure at a height of 20 feet. The existing accessory structure is constructed with a height of 22 feet. Per Title 19 development standards accessory structures are limited to 2 stories (35 feet) or no greater than the height of the main building. The structure is over the height restriction under Title 19.08 and as such staff recommends denial of the requested Variance (VAR-18669).

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship _by constructing a building over the height regulation for accessory structures. An alternative design with a overall height at or less than 20 feet would allow conformance to the Title 19.08 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances. Staff recommends denial of the Variance request.

PLANNING COMMISSION ACTION

There were four speakers and a petition submitted in opposition. There were three speakers in favor at the Planning Commission Meeting.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 13

SENATE DISTRICT 9

NOTICES MAILED 155 by City Clerk

APPROVALS 6

PROTESTS 6